

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Reunamaki, et al.
Title: DEVICE DISCOVERY AND
CONNECTION
ESTABLISHMENT FOR AD
HOC NETWORKS
Appl. No.: 10/772,255
Filing Date: 2/6/2004
Examiner: Yasin M. Barqadle
Art Unit: 2456
Confirmation Number: 6861

REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT
UNDER 37 C.F.R. §1.705

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir: Applicants are in receipt of the Notice of Allowance mailed on April 5, 2010 for the above-referenced application.

At the time of allowance, the Patent Office determined that the patent was entitled to 839 days of PTA. Applicants believe that this PTA determination was made in accordance with the "Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. §154(b)(2)(A)" published at 69 Fed. Reg. 34238 (Jun. 21, 2004). Under that interpretation of the PTA statute, any PTO delay under 35 U.S.C. § 154(b)(1)(A) is deemed to overlap with any 3-year maximum pendency delay under 35 U.S.C. § 154(b)(1)(B), and so, as a practical effect, PTA may be awarded under §154(b)(1)(A) or §154(b)(1)(B), but not both.

On January 7, 2010, the U.S. Court of Appeals for the Federal Circuit affirmed the September 30, 2008 decision of the United States District Court for the District of Columbia finding that the U.S. Patent and Trademark Office's interpretation of the PTA statute is incorrect. *Wyeth v. Kappos*, No. 2009-1120 (Jan. 7, 2010). The Federal Circuit determined that "[b]efore the three-year mark, no 'overlap' can transpire between the A delay and the B delay," and that

"[i]f an A delay occurs on one day and a B delay occurs on a different day, those two days do not 'overlap' under section 154 (b)(2)."

Applicants have recalculated PTA for the captioned patent under the court's interpretation of the PTA statute, and have determined that the patent is entitled to 1193 days PTA, as shown on the attached sheet, which shows the relevant delays under 37 CFR §§1.702(a) and (b), and under 37 CFR §§1.703(a) and (b).

There were no circumstances during the prosecution of the application resulting in the patent that constitute a failure to engage in reasonable efforts to conclude processing or examination of such application as set forth in § 1.704.

The attached sheet details the circumstances during the prosecution of the application resulting in the patent that constitute a failure to engage in reasonable efforts to conclude processing or examination of such application as set forth in § 1.704.

(a) Total of non-overlapping PTO delay under §154(b)(1)(A) & (B): 1,446 days

(b) Total Applicant delay: 253 days

Final PTA Determination: 1,193 days

Applicants therefore respectfully request that the patent be accorded 1,193 days PTA.

The patent is not subject to a terminal disclaimer.

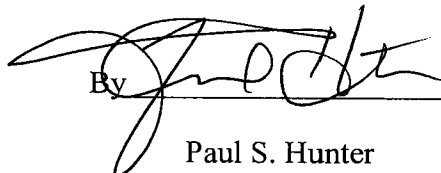
Payment of the requisite fee is submitted herewith. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

However, because this PTA error is due to a Patent Office error in interpreting and applying the PTA statute, a refund of the fee is respectfully requested.

Respectfully submitted,

Date July 2, 2010

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Patent Term Adjustment Calculation System

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Docket Number: 088245-0193

Application Number: 10/772255

Patent Number: N/A

	Event Description	Event Date	Days from Filing	PTO Days	Applicant Days
Edit Delete	Application Filing Date	02/06/2004	0		
	14 month From Application date	04/06/2005	425		
	3 Year Period Starts	02/06/2007	1,096		
Edit Delete	Non-Final Office Action	04/02/2008	1,517	(1092)	
Edit Delete	Non-Final Office Action Rsp. Rcv'd at PTO	06/03/2008	1,579		
	Non-Final Office Action + 3 months	07/02/2008	1,608		
Edit Delete	Notice of Non-Compliance	09/03/2008	1,671		
Edit Delete	Non-Final Office Action Rsp. Rcv'd at PTO	09/18/2008	1,686		(107), (78) 107
Edit Delete	Final Office Action	11/24/2008	1,753		
Edit Delete	Final Office Action Response Received at PTO	01/22/2009	1,812		
Edit Delete	Advisory Action	02/09/2009	1,830		
	Final Office Action + 3 months	02/24/2009	1,845		
	3 Year Period Stopped	03/22/2009	1,871	(775) 1446	
Edit Delete	Request For Continued Examination (including amendment)	03/23/2009	1,872		27
Edit Delete	Request For Continued Examination (including amendment)	03/23/2009	1,872		
Edit Delete	Non-Final Office Action	06/09/2009	1,950		
Edit Delete	Non-Final Office Action Rsp. Rcv'd at PTO	09/08/2009	2,041		
	Non-Final Office Action + 3 months	09/09/2009	2,042		
Edit Delete	Notice of Non-Compliance	12/11/2009	2,135		
Edit Delete	Non-Final Office Action Rsp. Rcv'd at PTO	01/05/2010	2,160		(119), (118) 119
Edit Delete	Notice of Allowance	04/05/2010	2,250		
	Projected Patent Grant Date	10/12/2010	2,440		
			Totals:	1,446	253
			PTA:	1,193	

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